

# **EXHIBIT 10**

**From:** [Mark Lezama](#)  
**To:** [Carson Olsheski](#)  
**Cc:** [bpalapura@potteranderson.com](#); [dmoore@potteranderson.com](#); [Greenfield, Leon](#); [Vote, Dominic](#); [Ford, Mark](#); [Milici, Jennifer](#); [Apple Masimo Service](#); [Knobbe.MasimoDE](#); [Jack Phillips](#); [Megan C. Haney](#); [Elena K. Wentz](#)  
**Subject:** RE: Apple v. Masimo (Delaware) - Discovery Responses and Privilege  
**Date:** Tuesday, July 18, 2023 8:09:39 PM

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Carson,

Thanks for conferring yesterday and for suggesting August 10 as a possibility for the deadline to waive privilege. As a compromise, Masimo could accept August 10 as the deadline if the parties stipulate to the following:

By August 10, 2023, any party opting to waive privilege on any issue currently in the case (regardless of the waiver's scope) must (1) serve a notice identifying the issues for which it is waiving privilege and its proposed scope of waiver and (2) produce all materials the waiving party contends fall within the scope of the waiver and supplement all discovery disclosures, including interrogatory responses, to include the information the waiving party contends falls within the scope of the waiver.

"Currently" means as of July 18, 2023. To the extent future pleadings, such as Apple's forthcoming answer to counterclaims, raise additional issues on which to waive privilege, a different deadline would apply to those issues.

Please let us know whether Apple agrees to this compromise. If the parties haven't reached agreement by Thursday morning, we plan to raise the issue with the Court.

**Mark Lezama**

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**From:** Mark Lezama <Mark.Lezama@knobbe.com>

**Sent:** Monday, July 17, 2023 9:34 AM

**To:** Carson Olsheski <COlsheski@desmaraisllp.com>

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